

HOUSE BILL REPORT

HB 1033

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to insurable interests and employer-owned life insurance.

Brief Description: Regulating insurable interests and employer-owned life insurance.

Sponsors: Representatives Kirby, Roach, Morrell and Simpson; by request of Insurance Commissioner.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/20/05, 2/8/05 [DPS].

Brief Summary of Substitute Bill

- Allows an employer to insure a nonmanagement or retired employee if certain circumstances are met.
- Requires written consent of an employee before an employer may insure the life of the employee for the benefit of the employer.
- Requires the disclosure of certain information to the employee whose life is insured within 30 days of purchase of the policy by the employer.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kirby, Chair; Ericks, Vice Chair; Santos, Schual-Berke, Simpson and Williams.

Minority Report: Do not pass. Signed by 4 members: Representatives Roach, Ranking Minority Member; Newhouse, Serben and Strow.

Staff: Jon Hedegard (786-7127).

Background:

Regulatory authority of the Insurance Commissioner

The Office of the Insurance Commissioner (OIC) regulates insurance transactions in the State of Washington. This includes life insurance policies that are issued or delivered in

Washington. Insurance rates and insurance forms are filed with the OIC. The OIC ensures that the rates and forms comply with the Insurance Code.

Insurance Contracts and Insurable Interests

A person may enter into an insurance contract in order to insure the life of another. The benefits are payable to the insured person (or their personal representative) or if the person procuring the contract has an "insurable interest" in the person insured.

Insurable Interests

The insurable interest may be based in:

- a substantial personal or emotional interest in an insured stemming from close family ties;
- a substantial economic interest in the continuing life, health, or safety of an insured;
- specified financial interests related to certain contracts, business relationships, and stock option arrangements;
- certain interests of guardians, trustees or other fiduciaries with respect to beneficiaries; or
- the interests of a nonprofit organization with respect to life insurance policies if certain criteria are met.

Traditionally, many businesses have purchased coverage on key personnel. This protects the business against the loss of a key person, such as an owner, partner, or CEO. Over the last several years, some companies and entities have extended their coverage of employees beyond high ranking staff. The lives of lower level, non-salaried employees have been insured for the benefit of the company or entity. This coverage has often been purchased without the knowledge or consent of the insured employee.

Summary of Substitute Bill:

- An employer may only insure the lives of nonmanagement and retired employees if:
 - (1) the coverage is reasonably commensurate with the unfunded liabilities of an employee benefit plan;
 - (2) the employee benefit plan is funded by the coverage;
 - (3) the nonmanagement and retired employees are eligible for benefits under the plan;
 - and
 - (4) the nonmanagement and retired employees do not withdraw consent.
- A nonmanagement or retired employee may withdraw consent at the time the employment relationship is terminated unless they have a right to receive benefits under the plan
- At any time after the employment relationship is terminated, a nonmanagement and retired employee may withdraw consent if the benefits are reduced, eliminated, or no longer funded by the coverage.

- An insured must consent in writing to the issuance of an employer-owned group life insurance policy.
- Within 30 days of purchasing a life policy on an employee, an employer must disclose to the employee the identification of the insurer, the benefit amount, and the identity of the beneficiary.
- Employers are prohibited from retaliating against an employee who will not consent to inclusion in an employer-owned life insurance policy.
- With respect to employer-owned life insurance policies, the bill applies only to those policies issued and delivered after the effective date of the act.
- An insured is not required to consent to the issuance of a group disability insurance policy.
- The bill clarifies that the application of chapter 48.18 RCW to all types of insurance other than ocean marine insurance and foreign trade insurance.
- Numerous technical changes are made, including the renumbering of statutory sections and editorial revisions to clarify existing language.

Substitute Bill Compared to Original Bill:

An employer may only insure the lives of nonmanagement and retired employees if:

- (1) the coverage is reasonably commensurate with the unfunded liabilities of an employee benefit plan;
 - (2) the employee benefit plan is funded by the coverage;
 - (3) the nonmanagement and retired employees are eligible for benefits under the plan;
- and
- (4) the nonmanagement and retired employees do not withdraw consent.

A nonmanagement or retired employee may withdraw consent at the time the employment relationship is terminated unless they have a right to receive benefits under the plan. At any time after the employment relationship is terminated, a nonmanagement and retired employee may withdraw consent if the benefits are reduced, eliminated, or no longer funded by the coverage.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The bill addresses an important issue. It limits when an employer can insure the lives of an employee or former employee for the benefit of the employer. The bill was

originally introduced in 2003. It has undergone some changes over time. The interest in the employee's life only matters at the time of the contract. Washington has a similar "insurable interest" law as most other states. The idea of limiting the insurable interest at a time after the making of the policy would create confusion and add significant costs. Under the bill, people can consent or not. The employer is prohibited from retaliating against an employee who does not consent. Some companies have insured janitors but most companies have underwriting standards that would prevent them from issuing a policy on the life of a janitor. The prospective nature of the bill is a practical reality. It is difficult to redraft existing contracts. We support the bill as drafted. If you try to reach contracts beyond your jurisdiction, the only companies regulated will be domestics. If you want to try to address those issues, a better venue might be the National Conference of Insurance Legislators or the National Association of Insurance Commissioners. The bill was developed with considerable input from many parties. The committee can make changes but please give appropriate weight to the earlier discussions.

Testimony Against: I think the bill takes steps forward. It provides notice to the employee and imposes some limits. I think the insurable interest concept has been taken too far, I can't imagine a court or legislator would have ever dreamed that a corporation would insure the life of their janitor. I don't understand how anyone could ever have an economic interest in the life of a minimum-wage earning employee or in a former employee. We ought to limit those concepts.

Persons Testifying: (In support) Mary Clogsten, Office of the Insurance Commissioner; Jeffrey Laurence, Symetra Life Insurance; and Mel Sorensen, American Council of Life Insurance.

(With concerns) Cliff Webster, American Insurance Association; and Robby Stern, Washington State Labor Council.

Persons Signed In To Testify But Not Testifying: None.